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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/800,151 | 03/05/2001 | Hiroyuki Suzuki | FUJX 18.406 | 4535 |

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| EXAMINER | |
|---|---|
| NGUYEN, BRIAN D | |
| **ART UNIT** | **PAPER NUMBER** |
| 2616 | |

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/800,151 | SUZUKI, HIROYUKI | |
| | Examiner | Art Unit | |
| | Brian D. Nguyen | 2616 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *10 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-13,16-23 and 25-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1,4,8-11,13,16-21,23,25-27 and 29-31* is/are allowed.

6)☒ Claim(s) *6 and 22* is/are rejected.

7)☒ Claim(s) *2,3,5,7,12 and 28* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 March 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Objections*

1. Claims 2 and 3. The terms: "capable of" is not positively recited limitations. The applicant is suggested to delete "capable of" from the claims so that all the limitations follow "capable of" can be considered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Semaan (6,850,483) in view of Shew et al (6,530,032).

Regarding claim 6, Semaan discloses a packet transmission equipment comprising: a plurality of interfacing section for interfacing the packet transmission equipment with each of redundantly configured simplex transmission paths in a physical layer (see figure 1); failure detecting section for detecting in the physical layer, a failure in each of preceding transmission sections of the transmission paths (see defect detector in figure 4); and communication controlling section for terminating the transmission paths via the plurality of interfacing section and transmitting an alarm packet (the protection frame in the abstract) indicating a failure detected by the failure detecting section to all or part of succeeding transmission sections of the transmission paths (see figure 1; col. 1, lines 42-63; col. 2, lines 26-55). Semaan does not

specifically disclose the network is a label-switching network and the alarm packet is transmitted via a transport layer. However, detecting fault in a label switching network is well known in the art and the transport layer/transport label layer (layer 4) responsible for error recovery and flow control is a standard feature. Shew discloses detecting fault in a label-switching network (see abstract). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply fault detection to a label switching network as taught by Shew in the system of Semaan in order to detect faults in label switching network.

Regarding claim 22, Semaan discloses the communication controlling section relays an alarm packet received from preceding transmission sections of the transmission paths, to all or part of succeeding transmission sections of the transmission paths (see the protection frame is transmitted to other nodes in the abstract).

### *Allowable Subject Matter*

4. Claims 1, 4, 8-11, 13, 16-21, 23, 25, 27, and 29-31 are allowed.

5. Claims 2, 3, and 5 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

6. Claims 7, 12, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Response to Arguments*

Applicant's arguments filed 1/26/06 have been fully considered but they are not persuasive. The applicant argued that the "protection frame" of Semaan is not transmitted to other nodes via a transport label layer. This argument is not persuasive because Semaan clearly teaches in the abstract that a node that detected the defect transmits the protection frame (alarm packet) to other nodes about the location of the failure and the type failure. Semaan does not specifically disclose a transport label layer. However, the transport label layer is a transport layer in a label switch. Shew discloses detecting the network failure in a label switching network. Therefore, the combination of Semaan and Shew references is sufficient to render the claim obvious under 35 USC 103. The applicant also argued that the "protection frame" of Semaan reference fails to indicate the interfacing section where the failure has been detected. This argument is irrelevant because claim 6 claims "an alarm packet indicating a failure detected by said failure detecting section" not indicate the interfacing section where the failure has been detected.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/29/06

BRIAN NGUYEN
PRIMARY EXAMINER